

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION  
CASE NO. C-1-03 00607

LYNN D. TUCKER, JR., et al.

PLAINTIFFS

vs.

CITY OF FAIRFIELD, OHIO, et al.

DEFENDANTS

\* \* \* \* \*

DEPONENT:

LYNN D. TUCKER, JR.

DATE:

JUNE 19, 2006

\* \* \* \* \*

ANNA I. CROUCH,  
REPORTER

**ORIGINAL**

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*Raising the Bar*  
620 Washington Street  
Covington, Kentucky 41011  
(859) 261-8440

1           Q.    -- and what I'd like for you to do  
2 today is explain to me what basis you have -- you  
3 personally, or what you've heard -- that the city was  
4 selectively enforcing the ordinance essentially that  
5 you were charged with violating.

6           A.    uh-huh, okay. I look at it a couple  
7 ways. We had asked the city prior if there was any  
8 ordinance that would prevent us from displaying the  
9 rat and they said no and the police department said no,  
10 and by driving up and down Route 4, you could see all  
11 types of stuff that were in the right-of-way, you know,  
12 for sale signs, and you see balloons, and you see cars  
13 -- just all types of stuff -- and you still see it  
14 today.

15               So, that told me that, okay, at the time  
16 that there was no restrictions for the right-of-way,  
17 and when the incident happened with the City of  
18 Fairfield and they come out with the police and they  
19 had the zoning inspector or whatever title it is show  
20 up with the police cars and all of that, and all that  
21 notoriety, for a better word, that we got because we  
22 were in that right-of-way, and I felt that, you know,  
23 with all this other stuff that's been going on and we  
24 already checked with them and they had said, no, there  
25 was no problem, but now there seems to be a problem.

1           And so then after that, I decided to check  
2 out the ordinance and stuff and whether it really  
3 applied to us, and so we monitored Route 4. We would  
4 see how many times, you know, the signs would be out  
5 there, and if they stayed out there, and how long they  
6 were out there, and what procedure they would actually  
7 have to go through, you know, for enforcing that  
8 ordinance, and we monitored it.

9           But the biggest thing that I seen and I  
10 heard that really upset me was when we were in court  
11 on that injunction and they put Ms. Matala up there,  
12 and she talked about how she enforces the zoning, and  
13 basically what she was saying was that it might take  
14 six months to a year for them to get a sign out of the  
15 right-of-way that's been concreted into the ground,  
16 you know, a permanent structure.

17           She went through numerous notifications --  
18 she did this, she did that, and she did all this other  
19 stuff -- but with us she called the police to come  
20 out, and there was no violation, you know, no traffic  
21 violation. That was horseshit, and there was no  
22 obstruction of the traffic, or nothing. It was just  
23 an ordinance.

24           And then on top of that, once the city  
25 found out that the ordinance didn't apply, they went

1 She said she drove up and down there once in a while,  
2 and that there was one guy, I think she said, that she  
3 went back four or five times before she finally got him  
4 to move it.

5 Q. Okay, and did she --

6 A. And she didn't define any definition  
7 between a permanent structure, or a temporary  
8 structure, or nothing.

9 Q. Okay.

10 A. So, if she don't know, I sure to hell  
11 don't know, and to this day I don't know.

12 Q. Now, I think you answered this in  
13 your response, but what would the motivation be on  
14 the part of the city to single out the union in terms  
15 of the display of the rat?

16 A. I feel that it was because of  
17 Fairfield Ford calling them and telling them that we  
18 were hurting its business, and they didn't want us  
19 out in front of their business.

20 Q. Okay. Now, do you have anything to  
21 support that feeling?

22 A. To support it?

23 Q. Correct.

24 A. Yeah, because when that service  
25 manager came out there, he said that he had called

1 Q. Okay. At any of those demonstrations,  
2 were you run off by local authorities?

3 A. No.

4 Q. Okay. After the incident with the  
5 rat on July 31st where you were issued a citation,  
6 it's your testimony that you used the rat at the same  
7 location approximately eight to ten times; is that  
8 true?

9 A. Yes.

10 Q. Isn't that a signal -- isn't that a  
11 sign to the public that the union has prevailed; that  
12 the union triumphed over the City of Fairfield, and  
13 that we are back utilizing the same rat, championing  
14 the rights of the worker?

15 A. No.

16 Q. You don't see it that way?

17 A. No. I see it that the only way that  
18 the workers were able to protect their rights is that  
19 it had to go to the Supreme Court, and in order to  
20 go to the Supreme Court to prevail over the City of  
21 Fairfield, nobody else is going to be able to take  
22 on that challenge, and so it's more of a negative thing  
23 than anything else.

24 That you have to spend hundreds of  
25 thousands of dollars to get a first amendment action